

Notice of Allowability

Application No.

09/161,109

Examiner

Catherine S. Williams

Applicant(s)

VALLEY ET AL.

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/4/04.
2. ☒ The allowed claim(s) is/are 113, 116, 117, 126-129, 131, 134 and 136.
3. ☒ The drawings filed on 25 September 1998 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☒ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Brian Tomko on 8/25/2004.

The application has been amended as follows:

In the Specification:

The priority claim listed in the amendment filed on October 7, 2002 has been deleted and replace it with the following:

This application is a continuation of U.S. Application Serial No. 08/797,229 filed February 7, 1997, now issued as U.S. Patent No. 5,814,016, which is a divisional of Application Serial No. 08/486,216, filed June 7, 1995, now issued as U.S. Patent No. 5,766,151, which is a continuation-in-part of Application Serial No. 08/282,192, filed July 28, 1994, now issued as U.S. Patent No. 5,584,803, which is a continuation-in-part of Application Serial No. 08/162,742, filed December 3, 1993, now abandoned, which is a continuation-in-part of Application Serial No. 08/123,411, filed September 17, 1993, now abandoned, which is a continuation-in-part of Application Serial No. 07/991,188, filed December 15, 1992, now abandoned, which is a continuation-in-part of application Serial No. 07/730,559, filed July 16, 1991, now issued as U.S. Patent No. 5,370,685.

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In the claims:

Claims 115, 118-119, 130, 132-133 and 135 have been cancelled.

In claim 113 line 9 after “the brachiocephalic artery;”, “and” has been deleted.

In claim 113 line 12 after “outer tubular member” the period “.” has been deleted and replaced with --; and--.

In claim 113 starting on a new line 13 –measuring pressure within the expandable occluding member with a pressure transducer within the expandable occluding member.—has been added.

In claim 129 line 9 after “the brachiocephalic artery;”, “and” has been deleted.

In claim 129 line 12 after “outer tubular member” the period “.” has been deleted and replaced with --; and--.

In claim 129 starting on a new line 13 –measuring pressure within the expandable occluding member with a pressure transducer within the expandable occluding member.—has been added.

In claim 136 line 8 after “the profile of” and before “occluding member”, “the” was changed to –an expandable--.

In claim 136 line 10 after “aorta and” and before “expandable occluding member”, “an” was changed to –the--.

Oath/Declaration

Applicant is now required to submit a substitute declaration or oath to correct the deficiencies set forth below. The substitute oath or declaration must be filed within the THREE MONTH shortened statutory period set for reply in the “Notice of Allowability”

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(PTO-37). Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136. Failure to timely file the substitute declaration (or oath) will result in **ABANDONMENT** of the application. The transmittal letter accompanying the declaration (or oath) should indicate the date of the "Notice of Allowance" (PTOL-85) and the application number in the upper right hand corner.

The declaration is deficient as indicated below:

-the U.S. priority applications to which this application claims benefit are not consistent with the priority applications listed in the transmittal sheet and first paragraph of the specification.

Allowable Subject Matter

Claims 113,116-117,126-129,131,134 and 136 are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art fails to teach a method of positioning a catheter that includes introducing a catheter into a blood vessel, transluminally positioning the catheter so that the distal end of the shaft is in the ascending aorta and an expandable occluding member attached to the catheter near the distal end is disposed between the coronary ostia and the brachiocephalic artery, expanding the occluding member, and measuring pressure within the expandable occluding member with a pressure transducer within the expandable occluding member.

The prior art also fails to teach a method of positioning a catheter that includes providing a catheter having a shaft with an inner tubular member and an outer tubular member and an expandable occluding member attached to the catheter near the distal end,

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rotating the outer tubular member proximally with respect to the inner tubular member to reduce the profile of the occluding member on the shaft of the catheter, translumenally positioning the catheter in the ascending aorta so the occluding member is disposed between the coronary ostia and the brachiocephalic artery, expanding the occluding member to block fluid flow therethrough or prevent migration of the occluding member into the aortic root.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine S. Williams whose telephone number is 703-308-4846. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Catherine S. Williams
August 26, 2004



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